

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION)	MDL No. 1456
)	Master File No. 01-12257-PBS
)	Subcategory Case No. 06-11337
)	
)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)	
<i>State of California, ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i>)	Magistrate Judge
)	Marianne B. Bowler
Case No: 1:03-cv-11226-PBS)	
)	

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and this Court's Local Rule 56.1, the State of California and Ven-A-Care ("Plaintiffs"), by and through their undersigned counsel, hereby move for partial summary judgment against Dey, L.P. and Dey, Inc. ("Dey"), Mylan Laboratories Inc. and Mylan Pharmaceuticals Inc. ("Mylan"), and Sandoz Inc. ("Sandoz") (collectively, "Defendants") as to liability on the First and Second Causes of Action brought in California's First Amended Complaint in Intervention,¹ which states claims for relief under the California False Claims Act ("CA FCA"), CAL. GOV'T CODE § 12651.

The grounds for this motion are set forth in the accompanying Memorandum of Law in Support of Motion for Partial Summary Judgment. Plaintiffs also submit a Local Rule 56.1 Statement of Undisputed Material Facts and Declaration of Nicholas N. Paul, together with exhibits thereto, as to each Defendant. Relator joins in this Motion.

¹ See First Amended Complaint in Intervention filed August 25, 2005, docket 1679, at 55-58.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Plaintiffs request oral argument on this motion.

Dated: November 24, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on November 24, 2009, a copy to Lexis-Nexis for posting and notification to all parties.

/s/ Nicholas N. Paul
NICHOLAS N. PAUL